

## Message Text

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ACTION DLOS-06

INFO OCT-01 IO-13 ISO-00 AF-08 ARA-10 EA-09 EUR-12 NEA-10

FEA-01 ACDA-10 AGR-10 AID-05 CEA-01 CEQ-01 CG-00

CIAE-00 CIEP-02 COME-00 DODE-00 DOTE-00 EB-07 EPA-04

ERDA-07 FMC-02 TRSE-00 H-02 INR-07 INT-05 JUSE-00

L-03 NSAE-00 NSC-05 NSF-02 OES-06 OMB-01 PA-02 PM-04

PRS-01 SP-02 SS-15 SAL-01 NSCE-00 SSO-00 USIE-00

INRE-00 /175 W

----- 041726

O 182258Z AUG 76

FM USMISSION USUN NY

TO SECSTATE WASHDC IMMEDIATE 8736

UNCLAS SECTION 1 OF 2 USUN 3320

FROM LOS DEL

E.O. 11652: N/A

TAGS: PLOS

SUBJECT: GROUP OF 77 DRAFT ARTICLES ON COMMITTEE I

1. FOLLOWING IS TEXT OF GROUP OF 77 ARTICLES 22 AND 23 AND  
SELECTED PARAGRAPHS OF ANNEX I WHICH WERE DISTRIBUTED  
AUGUST 18 AT COMMITTEE I WORKSHOP. BEGIN TEXT.

FUNCTIONS OF THE AUTHORITY

ARTICLE 22

1. ACTIVITIES IN THE AREA SHALL BE CONDUCTED EXCLUSIVELY  
BY THE AUTHORITY

(I) DIRECTLY THROUGH THE ENTERPRISE, OR

(II) AS DETERMINED BY THE AUTHORITY, THROUGH A FORM

OF AUTHORITY AND STATES PARTIES OR STATE

ENTERPRISES, OR PERSONS NATURAL OR JURIDICAL

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WHICH POSSESS THE NATIONALITY OF STATES

PARTIES OR ARE EFFECTIVELY CONTROLLED BY THEM  
OR THEIR NATIONALS, WHEN SPONSORED BY SUCH  
STATES, OR ANY GROUP OF THE FOREGOING.

2. ACTIVITIES IN THE AREA SHALL BE CONDUCTED IN  
ACCORDANCE WITH THE RELEVANT PROVISIONS OF THIS  
CONVENTION, OF ANNEX I THEREOF, AND THE STATUTE  
OF THE ENTERPRISE.

3. ACTIVITIES OF THE ENTERPRISE IN THE AREA SHALL  
BE CONDUCTED IN ACCORDANCE WITH A FORMAL WRITTEN  
PLAN OF WORK DRAWN UP IN ACCORDANCE WITH ANNEX I AND  
APPROVED BY THE COUNCIL AFTER REVIEW BY THE TECHNICAL  
COMMISSION. ACTIVITIES IN THE AREA IN ASSOCIATION  
WITH THE ENTITIES SPECIFIED IN PARAGRAPH 1, SHALL BE  
CONDUCTED PURSUANT TO A CONTRACT WITH THE AUTHORITY  
ENTERED INTO IN ACCORDANCE WITH ANNEX I AND  
APPROVED BY THE COUNCIL AFTER REVIEW BY THE  
TECHNICAL COMMISSION.

4. THE AUTHORITY SHALL EXERCISE FULL AND EFFECTIVE  
CONTROL OVER ACTIVITIES IN THE AREA FOR THE PURPOSE  
OF SECURING COMPLIANCE AT ALL TIMES WITH THE  
RELEVANT PROVISIONS OF THIS CONVENTION, ANNEX I  
THEREOF, THE RULES, REGULATIONS AND PROCEDURES OF  
THE AUTHORITY, AND THE PLANS OF WORK AND CONTRACTS  
APPROVED IN ACCORDANCE WITH PARAGRAPH 3. STATES  
PARTIES SHALL ASSIST THE AUTHORITY BY TAKING ALL MEASURES NEC-  
CESSARY TO SECURE SUCH COMPLIANCE.

#### ARTICLE 23

1. THE AUTHORITY SHALL AVOID DISCRIMINATION IN THE  
EXERCISE OF ITS POWERS AND FUNCTIONS, INCLUDING THE  
GRANTING OF OPPORTUNITIES FOR ACTIVITIES IN THE AREA.  
ALL RIGHTS GRANTED UNDER IT SHALL BE FULLY SAFEGUARDED  
IN ACCORDANCE WITH THE PROVISIONS OF THIS PART OF  
THE CONVENTION.

2. SPECIAL CONSIDERATION FOR DEVELOPING COUNTRIES,  
INCLUDING THE CONDUCT OF ACTIVITIES BY THE  
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AUTHORITY IN CERTAIN PARTS OF THE AREA SOLELY IN  
ASSOCIATION WITH THEM, SHALL NOT BE DEEMED TO BE  
DISCRIMINATION.

#### ANNEX I

TITLE TO MINERALS AND PROCESSED SUBSTANCES

2. TITLE TO THE MINERALS OR PROCESSED SUBSTANCES

DERIVED FROM THE AREA SHALL PASS FROM THE AUTHORITY ONLY IN ACCORDANCE WITH THE PROVISIONS OF THIS CONVENTION, THE RULES AND REGULATIONS PRESCRIBED BY THE AUTHORITY IN ACCORDANCE WITH THIS CONVENTION, AND THE TERMS AND CONDITIONS OF THE CONTRACT.

QUALIFICATIONS OF APPLICANTS

(A) THE AUTHORITY SHALL ADOPT APPROPRIATE ADMINISTRATIVE PROCEDURES AND RULES AND REGULATIONS FOR MAKING AN APPLICATION AND FOR THE QUALIFICATIONS OF AN APPLICANT. SUCH QUALIFICATIONS SHALL INCLUDE FINANCIAL STANDING, TECHNOLOGICAL CAPABILITY AND SATISFACTORY PERFORMANCE UNDER PREVIOUS CONTRACTS WITH THE AUTHORITY, IF ANY.

(B) THE PROCEDURES FOR ASSESSING THE QUALIFICATIONS OF STATES PARTIES WHICH ARE APPLICANTS SHALL TAKE INTO ACCOUNT THEIR CHARACTER AS STATES.

(C) ALL APPLICANTS WITHOUT EXCEPTION AND ON AN EQUAL FOOTING SHALL:

(I) UNDERTAKE TO COMPLY WITH AND TO ACCEPT AS ENFORCEABLE THE OBLIGATIONS CREATED BY THE PROVISIONS OF THIS PART OF THE CONVENTION, THE RULES AND REGULATIONS ADOPTED BY THE AUTHORITY, AND THE DECISIONS OF ITS ORGANS AND THE TERMS OF CONTRACTS, AND TO ACCEPT CONTROL BY THE AUTHORITY IN ACCORDANCE THEREWITH;

(II) ACCEPT CONTROL BY THE AUTHORITY IN ACCORDANCE WITH PARAGRAPH Y;

(III) PROVIDE THE AUTHORITY WITH SATISFACTORY ASSURANCES THAT ITS OBLIGATIONS COVERED BY THE CONTRACT ENTERED INTO BY IT WILL BE FULFILLED IN UNCLASSIFIED

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GOOD FAITH;

(IV) UNDERTAKE TO PROMOTE THE INTEREST OF DEVELOPING COUNTRIES BY ASSOCIATION OR OTHER MEANS.

ACTIVITIES CONDUCTED THROUGH THE ENTERPRISE  
8. (NEW) PROCEDURES RELATING TO ACTIVITIES IN THE AREA CONDUCTED UNDER ARTICLE 22.1 (I) THROUGH THE ENTERPRISE SHALL BE GOVERNED BY SUCH PROVISIONS AS THE AUTHORITY MAY ESTABLISH IN ITS RULES AND REGULATIONS AND BY THE STATUTE OF THE ENTERPRISE. SUCH ACTIVITIES SHALL BE CONDUCTED IN ACCORDANCE WITH THE RESOURCE POLICY SET FORTH IN ARTICLE 9, AND---, AND THE RELEVANT DECISIONS OF THE AUTHORITY IN IMPLEMENTATION THEREOF.

SELECTION OF APPLICANTS

8. (BIS) WHEN THE AUTHORITY DETERMINES TO CONDUCT  
ACTIVITIES IN THE AREA UNDER ARTICLE 22.1(II), THE  
FOLLOWING PRINCIPLES SHALL APPLY:

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INFO OCT-01 IO-13 ISO-00 AF-08 ARA-10 EA-09 EUR-12 NEA-10

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FROM LOS DEL

(A) THE AUTHORITY, ON ITS OWN INITIATIVE, OR  
UPON RECEIVING AN APPLICATION WITH RESPECT TO  
ACTIVITIES IN A PART OF THE AREA AND RELATING  
TO A SPECIFIED CATEGORY OF MINERALS, SHALL  
PUBLISH AND MAKE KNOWN TO ALL MEMBERS A TIME  
LIMIT FOR RECEIVING APPLICATIONS FOR CONTRACTS.  
IF NO COMPETING APPLICATION HAS BEEN RECEIVED  
WITHIN SUCH TIME LIMIT, THE AUTHORITY SHALL  
ENTER INTO NEGOTIATIONS WITH THE APPLICANT ON  
THE TERMS OF A CONTRACT, IN ACCORDANCE WITH

SUBPARAGRAPH (F) PROVIDED THE AUTHORITY FINDS  
THAT:

(I) THE APPLICANT POSSESSES THE REQUISITE  
QUALIFICATIONS PURSUANT TO PARAGRAPH 7;  
(II) THE APPLICANT COMPLIES WITH THE  
PROCEDURES ESTABLISHED FOR APPLICATIONS;  
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(III) THE APPLICATION DOES NOT RELATE TO  
ACTIVITIES REFERRED TO IN PARAGRAPH 8 AND  
8 BIS(E) (I);

(IV) THE CONTRACT IS IN ACCORDANCE WITH THE  
RESOURCE POLICY SET FORTH IN ARTICLE 9 AND  
---,AND THE RELEVANT DECISIONS OF THE  
AUTHORITY IN IMPLEMENTATION THEREOF.

(B) IF THE AUTHORITY RECEIVES MORE THAN ONE  
APPLICATION WITHIN THE TIME LIMIT REFERRED TO  
IN PARAGRAPH (A) IN RESPECT OF SUBSTANTIALLY  
THE SAME PART OF THE AREA AND CATEGORY OF  
MINERALS, SELECTION FROM AMONG THE APPLICANTS  
SHALL BE MADE ON A COMPETITIVE BASIS, IN  
ACCORDANCE WITH SUBPARAGRAPH (A) , THE AUTHORITY  
SHALL ENTER INTO NEGOTIATIONS WITH THE  
APPLICANTS IN ORDER TO SELECT ONE AMONG THEM  
ON THE BASIS OF A COMPARATIVE CONSIDERATION OF  
THEIR APPLICATIONS AND QUALIFICATIONS AND, ONCE  
THE SELECTION IS MADE, THE AUTHORITY SHALL ENTER  
INTO NEGOTIATIONS WITH THE SELECTED APPLICANT  
ON THE TERMS OF A CONTRACT, IN ACCORDANCE WITH  
SUBPARAGRAPH (F).

(C) IF, WITHIN A PERIOD SPECIFIED BY THE  
AUTHORITY, AFTER NEGOTIATIONS WERE ENTERED INTO,  
A CONTRACT HAS NOT BEEN CONCLUDED WITH THE  
APPLICANT, THE AUTHORITY MAY REINITIATE THE  
PROCEDURE FOR SELECTION OF APPLICANTS AS  
SPECIFIED THEREIN.

(D) IF THE CONTRACTOR HAS ENTERED INTO A  
CONTRACT WITH THE AUTHORITY FOR SEPARATE STAGES  
OF OPERATIONS, HE SHALL HAVE A PREFERENCE AND A  
PRIORITY AMONG APPLICANTS FOR A CONTRACT FOR  
SUBSEQUENT STAGES OF OPERATIONS WITH REGARD TO  
THE SAME AREAS AND MINERALS; PROVIDED, HOWEVER,  
THAT WHERE THE CONTRACTOR'S PERFORMANCE  
HAS NOT BEEN SATISFACTORY SUCH PREFERENCE OR  
PRIORITY MAY BE WITHDRAWN.

(E) (I) THE CONTRACT AREA SHALL BE SUFFICIENTLY  
LARGE TO ALLOW THE AUTHORITY AFTER THE STAGES  
OF EXPLORATION AND EVALUATION HAVE BEEN  
COMPLETED, TO DETERMINE THAT A PART OF IT  
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SHALL BE SOLELY FOR THE CONDUCT OF ACTIVITIES BY THE AUTHORITY THROUGH THE ENTERPRISE OR IN ASSOCIATION WITH DEVELOPING COUNTRIES. THE ENTERPRISE SHALL BE GIVEN AN OPPORTUNITY TO DECIDE WHETHER IT WISHES TO CONDUCT THE ACTIVITIES ITSELF. APPLICATIONS FOR CONTRACTS CONCERNING SUCH PARTS SHALL BE GOVERNED MUTATIS MUTANDIS BY THE PROCEDURES ESTABLISHED IN PARAGRAPH 8 BIS.

(II) WHEN CONSIDERING APPLICATIONS FROM DEVELOPING COUNTRIES OR FROM A GROUP OF APPLICANTS WHICH INCLUDE DEVELOPING COUNTRIES FOR AREAS SPECIFIED UNDER SUBPARAGRAPH (I), THE AUTHORITY SHALL, BEFORE ENTERING INTO A CONTRACT, ENSURE THAT THE DEVELOPING COUNTRY OR COUNTRIES CONCERNED WILL OBTAIN SUBSTANTIAL BENEFITS THEREFROM AS EVIDENCED INTER ALIA BY ---.

(F) THE NEGOTIATIONS REFERRED TO IN THIS PARAGRAPH SHALL DEAL WITH THE RESPECTIVE CONTRIBUTIONS OF THE AUTHORITY AND THE CONTRACTOR IN ASSOCIATION, INCLUDING THE CONTRIBUTION OF FUNDS, MATERIALS, EQUIPMENT, SKILLS AND KNOW-HOW AS NECESSARY FOR THE CONDUCT OF OPERATIONS COVERED BY THE CONTRACT AND THE EXTENT OF THE PARTICIPATION OF DEVELOPING COUNTRIES THEREIN, AS WELL AS THE PROPER FINANCIAL ARRANGEMENTS IN ACCORDANCE WITH PARAGRAPH 9(D). THE CONTRACTOR SHALL PROVIDE AN APPROPRIATE GUARANTEE OF SATISFACTORY PERFORMANCE UNDER THE CONTRACT TO BE DETERMINED BY THE AUTHORITY. BEFORE SIGNING A CONTRACT, THE AUTHORITY MUST BE SATISFIED THAT SAID CONTRACT IS IN ACCORDANCE WITH THE GOALS OF THE AUTHORITY AS SET FORTH IN PART I OF THIS CONVENTION AND IN THIS ANNEX.

(G) BEGIN BRACKET THE ISSUE OF A QUOTA OR ANTI-MONOPOLY PROVISION REMAINS TO BE DISCUSSED IN THE COMMITTEE IN THE FUTURE. END BRACKET

THIS PARAGRAPH SHALL NOT PREJUDICE THE PROVISIONS OF PARAGRAPH 11. END TEXT.

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2. ANALYSIS AND COMMENTS WILL FOLLOW SEPTTEL.

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## Message Attributes

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**Capture Date:** 01 JAN 1994  
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**Current Classification:** UNCLASSIFIED  
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**Copy:** SINGLE  
**Draft Date:** 18 AUG 1976  
**Decaption Date:** 01 JAN 1960  
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**Disposition Action:** n/a  
**Disposition Approved on Date:**  
**Disposition Authority:** n/a  
**Disposition Case Number:** n/a  
**Disposition Comment:**  
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**Review Withdrawn Fields:** n/a  
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**TAGS:** PLOS, G-77  
**To:** STATE  
**Type:** TE  
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